

In the Matter of the

FINANCIAL INSTITUTIONS ACT, RSBC 1996, c.141
(the “Act”)

and the

INSURANCE COUNCIL OF BRITISH COLUMBIA
 (“Council”)

and

WAI LING VIVIAN HA
(the “Licensee”)

ORDER

As Council made an intended decision on September 17, 2024, pursuant to sections 231, 236, and 241.1 of the Act; and

As Council, in accordance with section 237 of the Act, provided the Licensee with written reasons and notice of the intended decision dated November 28, 2024; and

As the Licensee has not requested a hearing of Council’s intended decision within the time period provided by the Act;

Under authority of sections 231, 236, and 241.1 of the Act, Council orders that:

- a. The Licensee is fined \$1,500, to be paid by March 17, 2025;
- b. The Licensee is required to complete the following courses, or equivalent courses as acceptable to Council, by March 17, 2025:
 - i. Insurance Council Rules Course for General Insurance, Salespersons and Adjusters;
 - ii. Supervision Course for General Insurance Agents; and
 - iii. Ethics and the Insurance Professional course, available through the Insurance Institute of Canada
(Collectively, the “Courses”);
- c. The Licensee is assessed Council’s investigation costs of \$1,500, to be paid by March 17, 2025;
- d. The Licensee is required to complete the ICBC Autoplan Basics for Brokers Program prior to conducting any future ICBC Autoplan insurance, and failure to meet this condition will result in the automatic suspension of the Licensee’s licence; and

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- e. A condition is imposed on the Licensee' general insurance licence that failure to complete the Courses and to pay the fine and investigation costs in full by their deadlines will result in the automatic suspension of the Licensee's licence, and the Licensee will not be permitted to complete the Licensee's 2026 annual licence renewal until such time as the Licensee has complied with the conditions listed herein.

This order takes effect on the **16th day of December 2024**.



Janet Sinclair, Executive Director
Insurance Council of British Columbia

INTENDED DECISION

of the

INSURANCE COUNCIL OF BRITISH COLUMBIA (“Council”)

respecting

WAI LING VIVIAN HA (the “Licensee”)

1. Pursuant to section 232 of the *Financial Institutions Act* (the “Act”), Council conducted an investigation to determine whether the Licensee acted in compliance with the requirements of the Act, Council Rules and Code of Conduct relating to allegations that the Licensee processed 63 Insurance Corporation of British Columbia (“ICBC”) Autoplan transactions that she knew, or ought to have known, were not insured for the purpose of operation on a British Columbia highway, and that the transactions were not in the best interests of ICBC.
2. On July 11, 2024, as part of Council’s investigation, a Review Committee (the “Committee”) comprised of Council members met with the Licensee via video conference to discuss the investigation. An investigation report prepared by Council staff was distributed to the Committee and the Licensee prior to the meeting. A discussion of the investigation report took place at the meeting and the Licensee was given an opportunity to make submissions and provide further information. Having reviewed the investigation materials and after discussing the matter, the Committee prepared a report for Council.
3. The Committee’s report, along with the aforementioned investigation report were reviewed by Council at its September 17, 2024, meeting, where it was determined the matter should be disposed of in the manner set out below.

PROCESS

4. Pursuant to section 237 of the Act, Council must provide written notice to the Licensee of the action it intends to take under sections 231, 236 and 241.1 of the Act before taking any such action. The Licensee may then accept Council’s decision or request a formal hearing. This intended decision operates as written notice of the action Council intends to take against the Licensee.

FACTS

5. The Licensee became licensed with Council as a Level 1 General Insurance Salesperson (“Level 1 Salesperson”) on June 20, 2014, and upgraded to a Level 2 General Insurance Agent (“Level 2 Agent”) on December 29, 2020. The Licensee is currently a Level 2 Agent.
6. The Licensee has maintained an authorization to represent (“ATR”) an agency (“the Agency”) since June 1, 2018.

On May 14, 2021, Council issued a Production Order to ICBC requesting, among other things, records from July 4, 2018, to May 14, 2021, where an agency or a licensee in the same agency office placed more than 40 one-year policies on newer vehicles that were subsequently cancelled and transferred within 30 days.

7. On April 5, 2022, Council issued an additional Production Order to ICBC requesting investigative records involving the Agency.
8. On July 4, 2018, and February 16, 2020, ICBC issued Broker News Bulletins on Licensing Vehicles Appropriately and Some Important Reminders for Temporary Operation Permits (“TOP”). ICBC reminded licensees that when a vehicle is licensed, it must be for the purpose of operating on a British Columbia highway. If a licensee is aware that the only reason a policy is being sold is to facilitate the export of the vehicle, and the customer intends to cancel the policy within days of issuance, the customer should only be sold a TOP.
9. Between January 23, 2019, and September 5, 2019 (the “Transaction Period”), the Licensee, who was employed by the Agency at the material time, processed 63 transactions (49 submissions and 14 cancellations) of one-year policies involving 27 vehicles to different purchasers.
10. Of the 14 cancellations, two policies were cancelled by the Licensee within one day after the policies were issued by the Licensee. Twelve policies were cancelled by the Licensee within two days after the policies were issued by other agents.
11. The Licensee processed repeated ICBC Autoplan transactions (policy issuance and cancellations) for the same vehicle within six months. A total of eight vehicles and 28 transactions were involved.
12. On November 4, 2019, ICBC determined that the Agency was issuing full-coverage annual policies, which were then cancelled on the same day or the next day. As a result of these transactions, ICBC paid a large amount of commissions to the Agency’s brokers and merchant fees for the credit card transactions.
13. Further, ICBC concluded that these transactions were not “*in the best interest of ICBC*” and “*elements of tax evasion and potential money laundering were also discovered during the investigation.*” The transactions had not been reported to ICBC, contravening the Autoplan Procedures Manual.
14. Of the 63 transactions that the Licensee had conducted, four main common policy owners were noted: Company EA, IH, Company WL and JW. The above owners accounted for 59 of the 63 transactions.
15. ICBC’s investigation suggested that ties existed between Company EA and IH. IH was the director of Company WL and was also the salesperson of Company EA. JW was identified by ICBC as being associated with IH.

16. The 49 ICBC Autoplan policies issued by the Licensee had combined total premiums of \$643,858. The average premium per policy was \$13,140, which was seven times higher than the 2019 average auto premium in BC (\$1,832), according to the Insurance Bureau of Canada. Forty-eight policies had premiums greater than BC's 2019 average auto premium.
17. On September 24, 2019, ICBC conducted an interview with the Licensee. The Licensee stated that she reported the same-day cancellation transactions and the high premium policies to her supervisor, KL. The Licensee stated that the owners of the Agency were also aware of the alleged transactions. The Licensee claimed that she was instructed to proceed with the transactions if the documents were in order. The Licensee also stated that she worked at the Agency on a salary basis.
18. In addition, ICBC's investigation concluded that IH (including Company EA and Company WL) obtained new vehicles both locally and from out of province and subsequently purchased full-coverage annual policies by credit card at the Agency. IH would then routinely cancel the policies the same day and request a refund by cheque. ICBC noted that "The refund by cheque also provided the prospect to launder money" and "the vehicles are then believed to be exported out of the country." IH would purchase the full policy instead of the standard non-licence or TOP to "conceal from the manufacturer that the vehicles were purchased for exportation."
19. ICBC has paid a large amount of commissions to brokers and merchant fees for the credit card transactions. ICBC also noted "the manufacturer[s] of these high-end vehicles are also financially impacted as these vehicles, as admitted by IH to a broker, are being exported out of the country."
20. On April 1, 2020, the Agency agreed to provide a payment of \$42,812 to ICBC to conclude the matter.
21. On June 13, 2023, and July 4, 2023, the Licensee provided submissions to Council. The Licensee admitted to her practice regarding the short-term cancellations, repeated policy cancellations and/or issuance on the same vehicles, and issuance of high premium policies. Initially, she did not question the appropriateness of these transactions.
22. After the Licensee had become aware of the repeated pattern among the transactions later in March or April 2019, she questioned the appropriateness of these transactions and reported the matter to one of the Agency owners. The Licensee was not instructed by the Agency's management to cease the transactions.
23. The Licensee was not aware of the ICBC communication entitled Licensing Vehicles Appropriately, dated July 4, 2018; she joined the Agency on July 3, 2018.
24. The Licensee advised she did not receive any training or briefing relevant to the ICBC communication entitled Licensing Vehicles Appropriately, dated July 4, 2018. However, on November 29, 2019, the Agency did share the important reminder for TOP and the Licensee was reminded at that time not to carry out those types of transactions.

25. The Licensee was aware of the ICBC communication entitled Some Important Reminders for Temporary Operation Permits, dated February 16, 2020. Her understanding was that brokers were not allowed to sell a one-year policy knowing that the vehicle was meant to be exported. A one-day-permit (TOP) would be sold for transportation purposes. The Licensee stated she did not receive any commissions from the transactions, and that she was not aware of the business of exporting new luxury vehicles from dealerships to foreign markets.
26. The Licensee also claimed that she did not facilitate the export of new vehicles out of British Columbia through the insurance business. There was no substantive evidence suggesting that the Licensee knew or was involved in the vehicle export grey market.
27. At the Committee meeting, the Licensee stated that she did not have automobile insurance experience until she started her employment at the Agency.
28. When asked by the Committee about the transactions, the Licensee stated that she did not believe the transactions were suspicious at first, because IH was an existing client of the Agency. Later on, the Licensee sought assistance from the Agency's management and was told by both owners of the Agency to proceed with the transactions if the paperwork was in order.
29. The Licensee believed IH was operating a used car dealership and she was not aware that IH was engaged in the business of exporting vehicles.
30. The Licensee attributed her actions to inexperience. She claimed she processed the transactions per the clients' instructions and that she was not aware of the high premiums on the policies.

ANALYSIS

31. Council considered the impact of Council's Code of Conduct on the Licensee's conduct, including section 4 ("Good Faith"), section 5 ("Competence"), section 7 ("Usual Practice: Dealing with Clients") and section 8 ("Usual Practice: Dealing with Insurers"). Council concluded that the Licensee's conduct amounted to clear breaches of sections 4, 5, 7 and 8 of the Code and the professional standards set by the Code of Conduct. Licensees are required by Council Rule 7(8) to comply with the Code of Conduct.
32. Council found that the Licensee breached her duty of good faith to ICBC. Even though the Licensee may not have received communications from ICBC regarding TOP, Council determined that more likely than not, the Licensee ought to have seen or have heard of the ICBC requirements pertaining to short-term cancellations from the Agency's management. Council noted the Licensee had resources available to her to determine the appropriateness of the transactions. Also, although Council considered whether the Licensee acted blindly on the clients' instructions, Council fell short in concluding that the Licensee failed to act in good faith to the clients.
33. Council concluded that the Licensee breached the usual practice of the business of insurance. Council noted the Licensee ought to have known that the transactions were not in the best interests of ICBC. Although the Licensee flagged the transactions to the Agency's management, she failed to protect

ICBC's interest by not questioning the appropriateness of the policies. Especially considering that the Licensee processed 63 transactions over a seven-month period, Council believes the Licensee failed to take adequate steps to fulfil her professional duty as an insurance licensee; for example, Council notes the Licensee could have sought more assistance from ICBC's Broker Enquiry Unit.

34. Further, Council concluded that the Licensee failed to adequately protect her clients' interests and to evaluate their needs. By following the clients' instructions in the manner the Licensee did, Council found that the Licensee breached the Usual Practice: Dealing with Clients principle. Council also questioned whether the Licensee discussed other options, including TOP, with the clients. By continuing to recommend the full annual policies and blindly complying with the clients' instructions, the Licensee breached her duty of care to ICBC, as the transactions were not in ICBC's best interests. For these reasons, Council concluded that the Licensee breached the Usual Practice: Dealing with Insurers principle.
35. While Council questioned the Licensee's decision to proceed with the transactions, Council took into consideration that she was a Level 1 Salesperson at the time, and that she was following instructions from the Agency's management. Moreover, Council found that the transactions were insufficient to determine intention. As such, Council did not find the Licensee to be untrustworthy.

PRECEDENTS

36. Before making its determination, Council took into consideration the following precedent cases. While Council is not bound by precedent and each matter is decided on its own facts and merits, Council found that these decisions were instructive in providing a range of sanctions for similar types of misconduct.
37. [*Anthony Bryan Chua Cua*](#) (February 2021) concerned a Level 2 general insurance agent licensee who unethically profited from commissions received from ICBC by regularly processing one-year vehicle insurance policies for an automobile dealership engaged in the export of vehicles out of Canada, and then cancelling the policies several days later. The licensee was found to have processed at least 129 transactions for the dealership, and had served as a straw buyer on two occasions by purchasing two vehicles using funds provided by the dealership. In total, the licensee earned over \$24,000 in commissions from ICBC. Council found that the licensee's actions demonstrated an overall lack of trustworthiness and good faith, and was exploitative of ICBC and its commissions system. In terms of mitigating factors, Council believed that the remorse shown by the licensee was genuine and noted that the licensee was a relatively inexperienced agent with no previous disciplinary history at the time of misconduct. Most notably, Council considered that the licensee had already experienced sanctions from ICBC, having had his Autoplan privileges suspended for a year and being required to complete courses. As for aggravating factors, Council found that the licensee's actions were financially motivated and demonstrated a lack of due diligence and an incredible amount of wilful blindness. Council believed its decision should send a message to the insurance industry and general public that generating commissions through the processing of exploitative transactions is not acceptable to Council, and that licensees should self-correct and seek guidance and clarification in situations in which they suspect there may be ethical problems. Council ordered that the licensee's general

insurance licence be suspended for a period of one year, and downgraded to a Level 1 Salesperson general insurance licence for a period of one year of active licensing. The licensee was also fined \$7,000 and assessed investigation costs.

38. [Ting En \(Brian\) Lin](#) (February 2021) concerned a Level 2 general insurance agent and a life and accident and sickness insurance agent licensee who unethically profited from commissions received from ICBC by regularly processing one-year vehicle insurance policies for an automobile dealership engaged in the export of vehicles out of Canada, and then cancelling the policies several days later. The licensee was found to have processed at least 30 transactions while employed at two insurance agencies, and had served as a straw buyer on three occasions by purchasing vehicles using funds provided by the dealership. Council determined the licensee had facilitated grey market transactions involving the export of luxury vehicles. Council found that the licensee's actions demonstrated an overall lack of trustworthiness and good faith, and was exploitative of ICBC and its commissions system. In terms of mitigating factors, Council believed that the remorse shown by the licensee was genuine, and considered the licensee to have been open and forthright with information. Most notably, Council considered that the licensee had already experienced sanctions from ICBC, having had his Autoplan privileges suspended for a year and being required to complete courses. As for aggravating factors, Council found that the licensee's actions were financially motivated and demonstrated a lack of due diligence and an incredible amount of wilful blindness. Council believed its decision should send a message to the insurance industry and general public that generating commissions through the processing of exploitative transactions is not acceptable to Council, and that licensees should self-correct and seek guidance and clarification in situations in which they suspect there may be ethical problems. Council ordered that the licensee's general insurance licence and life and accident and sickness insurance licence be suspended for a period of six months, and downgraded to a Level 1 Salesperson general insurance licence for a period of one year of active licensing. The licensee was further required to be supervised for a period of one year. The licensee was also fined \$5,000 and assessed investigation costs.
39. [Peter Hing-Fu Hung](#) (January 2015) concerned a Level 1 Salesperson licensee who worked mostly as a mobile road services agent. Over the course of two days, the licensee completed insurance transactions for two different luxury vehicles, for an individual who was later found to have been an imposter. There were suspicious circumstances involved with the transactions, but the licensee did not put notation on the transaction documents or take any other action to flag suspicions to ICBC or his supervisor. Council believed that the licensee had "turned a blind eye" to the suspicious circumstances, and that he had not appreciated their responsibilities when conducting suspicious transactions. The licensee was fined \$1,000, assessed costs of \$2,625 and required to complete three ICBC courses. The licensee was also required to complete the Insurance Brokers Association of British Columbia's Ethics for Insurance Brokers course and was only allowed to conduct insurance business from his agency's office until his courses were completed.
40. Council found the misconduct in *Hung* to be similar to the subject case. Although *Hung* concerned two transactions, Council noted that in both cases there was no evidence of deliberate intent to commit misconduct. Further, both *Hung* and the subject case concerned Level 1 Salespersons.

MITIGATING AND AGGRAVATING FACTORS

41. Council found several aggravating factors to be applicable in this case. Council considered that whether directly or indirectly, the Licensee's actions caused harm to the public. Council deemed that both ICBC and the vehicle manufacturers were harmed. In addition, Council considered that this incident could have caused a lack of confidence in the insurance industry. Further, although there was no evidence to suggest the Licensee had bad intentions, the transactions had the potential to facilitate money laundering and/or trade based money laundering. Council also took into account that the transactions took place over approximately seven months.
42. As for mitigating factors, Council noted the Licensee followed the Agency's direction to proceed with the transactions. Council considered that the Licensee was a Level 1 Salesperson at the material time and that she brought the transactions to the Agency's management's attention. Council also found that the Licensee cooperated with Council's investigation.

CONCLUSIONS

43. After weighing all of the relevant considerations, Council found the Licensee to be in breach of the Council's Rules and the Code of Conduct.
44. Council concluded the Licensee should be fined \$1,500. Given that the Licensee was a Level 1 Salesperson at the time of the transactions, who did try to raise concerns relating to the transactions to management, and considering that Council did not find the Licensee to be untrustworthy, Council has determined that no suspension is appropriate. Council has determined that the Agency had a duty to ensure that Level 1 Salespersons were properly supervised and that given management advised the Licensee to continue the transactions, Council relied on the *Hung* precedent to determine that a fine and courses are appropriate disciplinary measures for this matter.
45. With respect to investigation costs, Council has concluded that these costs should be assessed to the Licensee. As a self-funded regulatory body, Council looks to licensees who have engaged in misconduct to bear the costs of their discipline proceedings so that those costs are not otherwise borne by British Columbia's licensees in general. Council has not identified any reason for not applying this principle in the circumstances.

INTENDED DECISION

46. Pursuant to sections 231, 236 and 241.1(1) of the Act, Council made an intended decision that:
- a. The Licensee be fined \$1,500, to be paid within 90 days of Council's Order;
 - b. The Licensee be required to complete the following courses, or equivalent courses as acceptable to Council, within 90 days of Council's Order:

- i. Insurance Council Rules Course for General Insurance, Salespersons and Adjusters;
 - ii. Supervision Course for General Insurance Agents; and
 - iii. Ethics and the Insurance Professional course, available through the Insurance Institute of Canada
(Collectively, the “Courses”);
- c. The Licensee be assessed Council’s investigation costs of \$1,500, to be paid within 90 days of Council’s Order;
- d. The Licensee be required to complete the ICBC Autoplan Basics for Brokers Program prior to conducting any future ICBC Autoplan insurance, and that failure to meet this condition will result in the automatic suspension of the Licensee's licence; and
- e. A condition be imposed on the Licensee’s general insurance licence that failure to complete the Courses and to pay the fine and investigation costs in full by their deadlines will result in the automatic suspension of the Licensee’s licence, and the Licensee will not be permitted to complete the Licensee’s 2026 annual licence renewal until such time as the Licensee has complied with the conditions listed herein.

47. Subject to the Licensee’s right to request a hearing before Council pursuant to section 237 of the Act, the intended decision will take effect after the expiry of the hearing period.

ADDITIONAL INFORMATION REGARDING FINES/COSTS

48. Council may take action or seek legal remedies against the Licensee to collect outstanding fines and/or costs, should these not be paid by the 90-day deadline.

RIGHT TO A HEARING

49. If the Licensee wishes to dispute Council’s findings or its intended decision, the Licensee may have legal representation and present a case in a hearing before Council. **Pursuant to section 237(3) of the Act, to require Council to hold a hearing, the Licensee must give notice to Council by delivering to its office written notice of this intention within fourteen (14) days of receiving this intended decision.** A hearing will then be scheduled for a date within a reasonable period of time from receipt of the notice. Please direct written notice to the attention of the Executive Director. If the Licensee does not request a hearing within 14 days of receiving this intended decision, the intended decision of Council will take effect.

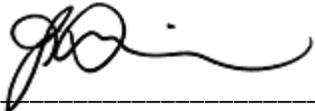
50. Even if this decision is accepted by the Licensee, pursuant to section 242(3) of the Act, the British Columbia Financial Services Authority (“BCFSA”) still has a right of appeal to the Financial Services Tribunal (“FST”). The BCFSA has thirty (30) days to file a Notice of Appeal once Council’s decision takes effect. For more information respecting appeals to the FST, please visit their website at

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www.bcfst.ca or visit the guide to appeals published on their website at <https://www.bcfst.ca/app/uploads/sites/832/2021/06/guidelines.pdf> .

Dated in Vancouver, British Columbia, on the **28th day of November 2024.**

For the Insurance Council of British Columbia

A handwritten signature in black ink, appearing to read 'Janet Sinclair', written over a horizontal line.

Janet Sinclair
Executive Director